

Tazeen M. Murshid

## Re-inventing the Self



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If it is possible to re-invent the self after routine duties over the years begin to numb the senses, then this was my hidden agenda for the millennium year spent as a Fellow at the Wissenschaftskolleg zu Berlin. It was a year of great expectations, an opportunity to challenge the intellect and break the mould of well-trodden journeys. Thus, the quest was to be both an academic and a personal one. The final assessment of such an undertaking can only be a subjective one.

It has been a good and happy year, though not without some trepidations. My daughter, Dina, had just turned eight on arrival and is now nine at our moment of departure. Changes of school, language, friends can be both trying and rewarding. But since I had already been commuting between London and Brussels for two years and Dina resented my absences, it seemed like a good idea to have her with me in Berlin, although my husband, Willem, could not join us except for fleeting weekend visits.

My year in Berlin began with a hiccup. A minor road accident on my second day left me feeling jinxed. My insurance paid up, since it would be difficult to prove that I was stationary at the low-priority crossing, in the absence of witness statements. Other initial hurdles came in the form of failed child-care arrangements. Our au pair did not get a visa to come from Bangladesh, presumably because immigration authorities feared some handsome youth would marry her and keep her in the country. The local au pair agency sent me a Ukrainian girl who wanted to live in with her boy-friend. Then a thirty-year-old Spanish lady flew in amidst the November snow only to realize the following morning that La Palma was more cheerful after all! For the next two months, a Zanzibari student shared her time between two families and frequently wanted to change the arrangements. So that deal collapsed. We found our Israeli babysitter, Renata, through a student agency, TUSMA, recommended to me by Frau Nettelbeck. She has been with us since January and has been a great source of support to me and a friend to Dina. Although friends and neighbours have been very helpful, it was only after Renata's arrival that I could concentrate on my academic work.

The good and the bad came together as they always do. That was both worrying and reassuring. Surely, things would get better. Surely, I would write my great piece, and think my deep thoughts. Well, subsequently, things did get better. But time began to weigh heavily upon me. The refrain began to echo again and again in my ear:

*And at my back I always hear, Time's winged chariot drawing near.*

My public lectures began in February. Until then, I had been frantically collecting data, primarily published court cases brought by Indian women during the period 1920 to 1947 in the High Courts of Lahore and Calcutta

and the Chief Court at Lucknow. Frau Bottomley of the library graciously allowed me to have a shelf for these volumes so that I would not have to carry them up and down to my room. But now I had to make sense of this information in the light of published literature in the field. To recall Robert Gernhardt's poem "Immer", everyone else seemed to have already found his or her voice. And that was no consolation!

The next few months to date have been hectic, as I tried to meet external and self-imposed deadlines, give lectures, and organise conferences while trying to squeeze in a few breaks with my family. I presented papers in London, Brussels, Berlin and Heidelberg.<sup>1)</sup> I convinced Dieter Sadowski to co-organise a one-day conference on Bangladesh, a much-neglected region surrounded by lofty neighbours who claim most of the international attention. Several other Fellows lent their support to this initiative: Gadi Algazi, Elisio Macamo, and Abdelmajid Charfi. My external collaborators in this venture were Professor Lütt of Humboldt University and Mr. Anwarul Masud, the Ambassador of Bangladesh.<sup>2)</sup> I also contributed to several research conferences organised by others in Berlin<sup>3)</sup>.

My research project at the Wissenschaftskolleg was to embark on a study that had been germinating in my mind over a number of years; it was titled "Perceiving Women: Social Mores, Legislation and Change". My Oxford D.Phil. thesis had just touched on the charged question of women's emancipation and the religious and secular moorings of debates concerning the rights of women. More recently, the rape and death of young women in police custody and by marauding gangs seemed to indicate that South Asian societies had regressed further from a state of social anomie to that of mindless anarchy. The notion of the "rule of law" was mere rhetoric and applied least to the institutions of law enforcement. The spectre of burning brides as ransom for dowry has come to haunt India since the sixties and Bangladesh since the eighties. Was this a new phenomenon, or was it always so? What is qualitatively different today from yesterday, I began to ask myself. It appeared as if women, once regarded as worthy of protection and desire, had become objects of contempt, dis-

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2) "Bangladesh Today: Democracy, Development and Governance" with presentations from both European and Bangladeshi scholars (July 1, at Jagdschloß Glienicke, Berlin).

3) The Workshop on *Family and Family Law* and the AGORA Workshop on *Globalisation* proved extremely useful for my own research.

regard and exploitation, on a large scale. I wanted to historicize the perceptions of women to qualify and explain these anomalous developments in societies where the image of the mother is held sacred, and where women become presidents and prime ministers.

Although my initial plan was to compare Lahore, Lucknow and Dhaka from 1920 to 1970, I decided that it would be much more manageable to focus on Bengal and Punjab during the colonial period, although not treating the dividing line of partition in 1947 as sacrosanct. At the same time as I was dealing with published records which came primarily from High Court rulings, I had to examine the Calcutta holdings, rather than Dhaka. The latter would have to wait for further fieldwork in the district court record offices in the region.

The approach to my subject was modified in various other ways as well. I had planned to study family law, but decided to examine criminal law as well: the secondary literature search confirmed my impression that the former had been well researched, but not the latter. This choice allowed me a wider range of contexts from within which to examine attitudes to women and the fraught question of female autonomy.

The literature review also demonstrated that the changing status of Muslim women had not been adequately historicized. However, I do not believe that Hindus and Muslims belonged to watertight compartments. They were often subject to the same laws, presented to one group as Islamic and to the other as Hindu, the clause on the restoration of conjugal rights, derived from ecclesiastical law, being a case in point. Thus, instead of following the well-trodden path of Hindu or Muslim history, I focussed on issues and, wherever applicable, drew from cases that affected both categories of women. Indeed, the category of *pardanishin lady*, was applied to both in rather similar contexts.

The analysis of court cases led me to an unexpected area of enquiry: the relationship between the role of the state and the dominant perceptions of women, through the prism of law as an instrument of state control. Curiously, in India as in parts of colonised Africa, the new and “modern” restrictions on female autonomy, such as on financial independence or unhindered movement in public as well as patriarchal control, were regarded as culturally authentic and “traditional”. I came to question the purpose of law in general and of colonial law in particular. This appeared to be inextricably linked to the nature of the state and the worldview of statesmen and judges. The stamp of the English mind was indelibly imprinted upon the Indian legal system and mentality, so much so that, even after years of independence, old and obsolete laws remain undisputed as part of South Asia’s traditional heritage.

While grappling with the question of the purpose of law, the discussions of the *Lawyers and Economists Group* – consisting of Dieter Sadowski, Marie Theres Fögen, Marcello De Cecco, Eli Salzberger, Lawrence Lessig, Stephan Voigt, Nicola Lacey, Hans-Jürgen Wagener, Dieter Grimm and myself – proved helpful: for example, the contextualisation of law in clear political and economic terms; its relation to the discourse of justice and rights; questions of liability and conscience, etc. As a historian, I was less concerned than some of my other colleagues about the claims of systems theory or the wariness of economic determinism, which was perceived to be encroaching into all spheres including law.

The Working Group on *Modernity and Islam* provided another forum within which to raise pertinent questions. The theme of “Notions of Law and Order in Islamic Societies” provided a comparative frame. Of particular interest to me were the topics presented on the Central Asian states under Tsarist rule, Palestine under the Crusader French and the Ottoman Middle East. The comparisons made with colonial India confirm again and again the notion of the “modernity of tradition”, which was often liberal and negotiable, but which was replaced by the “tradition of modernity” which was frequently rigid and inflexible.